THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15566 of 2007

23.7.2007

Between:

K.Satish, S/o.Sushila Naidu

... Petitioner

AND

The Government of Andhra Pradesh, Department of Revenue (UC.II)
Represented by its Principal Secretary
And others

... Respondents

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ORDER:

The petitioner is allegedly purchased a house-site admeasuring 236 Sq.yards bearing plot No.54 comprised in survey Nos.403/8, 9, 10 and 11 situated at Shaikpet village of Banjara Hills, Hyderabad, from Vemuri Viswanatha Sastry, under a registered sale deed bearing document No.826/1981. The house-site is part of the layout of Women Co-operative Housing Society Ltd., Hyderabad (WCS) and was originally purchased by the petitioner's vendor under registered document No.3021/1979 from the said society. Krishna Nagar Colony layout is adjacent to WCS layout. Petitioner alleges that the land of Krishna Nagar Colony was declared as surplus land under the provisions of Urban Land (Ceiling on Agricultural Holdings) Act, 1976 (ULC Act, for brevity). This was encroached by number of persons. Fifth respondent occupied the surplus land bearing House No.8-3-231/133B. He allegedly encroached upon the land forming part of 50 feet wide road passing in between WCS layout and Krishna Nagar Colony layout, obtained building permission vide permit No.214/2/387, dated 12.2.1999, and constructed a compound wall. The petitioner approached the Municipal Corporation of Hyderabad (MCH), in vain. He then filed W.P.No.993 of 2002. This Court disposed of the same on 23.1.2002 directing the Commissioner, MCH, to take necessary action. Subsequently, petitioner filed contempt case being C.C.No.131 of 2003, in which, MCH filed counter affidavit to the effect that permission granted to fifth respondent was revoked and that the compound wall constructed across the road was demolished. Therefore, the CC No.131 of 2003 was closed. In the meanwhile, the Government of Andhra Pradesh issued G.O. Ms.No.455, dated 29.7.2002. Apprehending that the fifth respondent might seek regularization under the said G.O., petitioner submitted a representation to the Commissioner, Urban Land Ceiling (ULC),

Hyderabad, seeking necessary redressal. In spite of the same, the Government issued G.O.Ms.No.1144, dated 15.11.2003, allotting an extent of 187 Sq.mts of land bearing premises No.8-3-231/B/133, in favour of fifth respondent. Pursuant to which Special Officer and Competent Authority, ULC – second respondent herein; issued endorsement dated 04.12.2003. Aggrieved by the G.O. as well as the endorsement of the second respondent, petitioner filed the instant writ petition seeking invalidation of the same.

Learned Counsel for the petitioner vehemently contends that the impugned orders passed by the respondents 1 and 2 are void, as no notice was issued to the petitioner. Secondly, he submits that having come to know that the fifth respondent is likely to get the land regularized in his favour, petitioner filed a revision petition before the Commissioner for ULC, but the Government issued orders without considering the same and therefore the action of the first respondent is arbitrary. Learned Government Pleader for Revenue (ULC) opposed the writ petition on the ground that the same is barred by delay and laches.

The Government of Andhra Pradesh issued G.O.Ms.No.1144, dated 15.11.2003. The consequential endorsement was issued on 04.12.2003 by the second respondent. This writ petition is filed after lapse of four years. There is no even a whisper in the affidavit accompanying the writ petition to justify such long delay. Secondly in paragraph 7 of the writ affidavit, petitioner admits that he has given a representation on 27.8.2002 to the Commissioner, ULC, Hyderbad. There is not even an allegation that he gave any such objection to the Special Officer. Learned Counsel however relies on an unattested copy of the representation allegedly issued by the Special Officer. A perusal of Xerox copy as well as neatly typed copy of the same would show that it was addressed to Commissioner, ULC, Hyderabad, but the name of the Special Officer was written with ink latter. This would certainly give rise to a doubt as to whether the petitioner filed such objection petitioner. The Commissioner, ULC, has nothing to do in the mechanism evolved for regularizing/allotting surplus vacant land in Hyderabad Urban Agglomeration. Therefore, the action of the second respondent in sending a report dated 16.4.2003 to first respondent, which is the basis for the Government to issue the impugned order cannot be faulted. Even otherwise, petitioner has set up a rival claim vis-à-vis fifth respondent. In such an event, even the Government cannot go into such question. Petitioner is virtually asking this Court to resolve the title dispute between him and the fifth respondent. Writ petition is not a proper remedy to resolve a title dispute. Petitioner has to approach the civil Court and seek declaration.

The writ petition, with the above observations, is accordingly

dismissed. No costs.

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(**V.V.S.RAO,J**)

July 23, 2007.
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